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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUE000343

For approval of generation facilities pursuant to Virginia Code § 56-580 D or, in the alternative, for approval of expenditures pursuant to Virginia Code § 56-234.3 and for a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2

and

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUF000021

For authority under Chapters 3, 4, and 5 of Title 56 of the Code of Virginia to participate in lease financing arrangements for construction of generation facilities, and for a declaration of non-jurisdiction

HEARING EXAMINER'S RULING

December 6, 2000

On December 5, 2000, the Staff of the State Corporation Commission ("Staff") and Virginia Electric and Power Company ("Virginia Power" or the "Company") jointly moved for a specific protective order concerning certain confidential information sought from the Company by the Staff in discovery. They assert in the motion that without such ruling Virginia Power is prohibited from making the material available per the stipulation of the United States Environmental Protection Agency ("EPA") and the Department of Justice ("DOJ"). Specifically, they state that the Staff has requested a copy of a recently announced emissions settlement, or, if not in final form, a copy of any "agreement in principle" between Virginia Power and the EPA. An Agreement in Principle must be reduced to a consent order before it becomes effective and until that process is completed, the EPA and DOJ have stipulated that the Agreement in Principle be kept confidential and not disclosed. When a consent order is filed in federal district court, however, it will become a public document. Virginia Power sought an exception to the prohibition on release of the information in the Agreement in Principle from the EPA and DOJ, and both have agreed that the contents may be shared with the Commission provided there is a guarantee that the contents are protected from disclosure to anyone else.

Staff and Virginia Power assert that the Protective Ruling entered in this case on August 24, 2000, does not address circumstances such as those presented in the motion, and further action to specifically limit access to this information is necessary. I agree. Moreover, Staff testimony is due to be filed December 15, 2000, so time is of the essence. Staff needs to have immediate access to this information to afford it time for a meaningful review.

Accordingly, it is **DIRECTED** that the contents of the Agreement in Principle may be provided to Staff and no other party hereto so that Virginia Power can fulfill the requirements of confidentiality established by the EPA and DOJ. It is further **DIRECTED**, however, that the parties to this case may file any comments on or before December 13, 2000, on whether under these special circumstances Staff should be prohibited from using information to which no other party has been afforded access.

Deborah V. Ellenberg
Chief Hearing Examiner